GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA

UNSTARRED QUESTION NO:5642
ANSWERED ON:25.04.2001
AMENDMENT OF NINTH SCHEDULE OF THE CONSTITUTION
RAJESH VERMA

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

(a) whether the Government propose to amend the Ninth Schedule of the Constitution for effective implementation of the policy of reservation for Scheduled Castes/Tribes in regard to appointment and promotion and make provisions of punishment for non-implementation and adopting obstructive measures in implementation;

(b) if so, the details thereof;

(c) the time by which the Bill is likely to be brought in the House; and

(d) if not, the reasons therefor?

Answer

MINISTER OF STATE OF DEPARTMENT OF PERSONNEL AND TRAINING AND DEPARTMENT OF PENSIONS AND PENSIONERS WELFARE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SMT. VASUNDHARA RAJE)

(a),(b),(c)&(d):No such decision has been taken. The executive intructions on reservation issued by DOPT derive authorityfrom Article 16(4) of the Constitution and come within the meaning of `law`. Legal validity of these instructions has specifically been upheld by the Supreme Court in Indra Sawhney case.No legal deficiency has been apprehended in implementation of the policy. Executive instructions have the advantage of flexibility to meet the emerging needs and such flexibility could not always be provided by legislative enactment. Flouting of the executive instructions on reservation amounts to miscounduct making the delinquent officials liable to disciplinary action under the Conduct Rules.